

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN TROTTER,)	
)	
)	
Petitioner,)	
)	C.A. NO. 05-40001-MLW
v.)	
)	
DAVID WINN,)	
)	
Respondent.)	
)	

MOTION TO DISMISS PETITION AS MOOT

Petitioner was committed to the Federal Medical Center, Devens, in Ayer, Massachusetts ("FMC Devens") and placed in a sex offender program implemented by the Bureau of Prisons ("BPS") as a result of his conviction of a sex offense committed in 1995. Prior to filing the instant action, Petitioner had been in the program for about eighteen (18) months. On December 27, 2004, Petitioner filed his habeas petition ("Petition") challenging his placement in the program. On or about October 14, 2005, Petitioner was released from the custody of FMC Devens. See Exhibit A, attached hereto.

"It is well settled that a case is moot 'when the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome, ... or alternatively, when the 'party invoking federal court jurisdiction' no longer has 'a personal stake in the outcome of the controversy.' " Boston & Maine Corp. v. Brotherhood of Maintenance of Way Employees, 94

F.3d 15, 20 (1st Cir. 1996) (citations omitted).

"A case is moot, and hence not justiciable, if the passage of time has caused it completely to lose its character as a present, live controversy of the kind that must exist if the court is to avoid advisory opinions on abstract propositions of law." Laurence H. Tribe, American Constitutional Law S 3-11, at 83 (2d ed. 1988) (internal quotations omitted). Once a case or controversy is moot, a federal court no longer retains jurisdiction to adjudicate the merits of the case. U.S. Const. art. III, Section 2. see also U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership, 513 U.S. 18, 21(1994).

Because the relief sought in the Petition -- removal from placement in the sex offender program -- has now been effectuated by Petitioner's release from custody on October 14, 2005, see Exhibit A, there is an absence of a live case or controversy. Accordingly, the petition should be dismissed as moot.

CONCLUSION

There being no present case or controversy, this action should be dismissed as moot.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Michael P. Sady
Michael P. Sady
Assistant U.S. Attorney
United States Attorney's Office
John J. Moakley Federal Courthouse
1 Courthouse Way
Boston, MA 02210
(617) 748-3100

Dated: October 18, 2005

CERTIFICATION UNDER L.R. 7.1

Pursuant to Local Rule 7.1(a)(2), since plaintiff is pro se the parties have not conferred with regard to this motion.

CERTIFICATE OF SERVICE

I hereby certify that I caused true copy of the above document to be served upon pro se petitioner by mail on October 18, 2005 to the most recent address provided by the BOP as follows: John Trotter, 205 Clyde Street, Wilmington, DE 19804.

/s/ Michael P. Sady
Michael P. Sady
Assistant U.S. Attorney

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X

JOHN TROTTER,

Petitioner,

v.

Civil Action No. 05-40001-MLW

DAVID WINN,

Respondent.

-----X

DECLARATION OF ANN H. ZGRODNIK

I, Ann Zgrodnik, hereby make the following declaration:

I am employed by the United States Department of Justice, Federal Bureau of Prisons, at the Federal Medical Center in Devens, Massachusetts (FMC Devens), as an Attorney Advisor. The legal office, from which I am located, is the Consolidated Legal Center - Devens. I have been employed at this position since approximately February 10, 2002.

2. As an Attorney Advisor, I have access to numerous records maintained in the ordinary course of business at FMC Devens regarding federal prisoners, including, but not limited to, documentary records, Judgment and Commitment files, and computerized records maintained on the Bureau of Prisons computerized data base, SENTRY.
3. On October 14, 2005, I ran a SENTRY search to determine the status of John Trotter, Reg. No. 04237-015, and whether Petitioner is still in the custody of the Bureau of Prisons. Review of his Public Information Data Sheet reveals that Petitioner was released from FMC Devens on October 14, 2005, via Good Conduct Time. A true and accurate copy of the Public Information Inmate Data sheet for Petitioner John Trotter is attached as Document A.
4. Attached hereto please find true and correct copies of the following documents:

- A. Public Information Data for inmate John Trotter, Reg. No. 04237-015.

I declare the foregoing is true and correct to the best of my knowledge and belief, and given under penalty of perjury pursuant to 28 U.S.C. § 1746.

Executed this 14th day of October, 2005.


Ann H. Zgrodnik
Attorney Advisor
Consolidated Legal Center - Devens

REGNO..: 04237-015 NAME: TROTTER, JOHN E
COMP NO: 010 ALL Curr COMPS(Y/N): Y ALL PRIOR COMPS(Y/N): Y
FUNC...: DIS RESP OF: DEV / GOOD CONDUCT TIME RELEASE
PHONE..: 978-796-1000 FAX: 978-796-1118
FBI NUMBER.: 978791WAS RACE/SEX...: BLACK / MALE
ACTUAL RELEASE METH.: GCT REL DOB/AGE...: 05-13-1975 / 30
ACTUAL RELEASE DATE.: 10-14-2005

----- ADMIT/RELEASE HISTORY -----

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
DEV	GCT REL	GOOD CONDUCT TIME REL (CCCA)	10-14-2005 0916	CURRENT
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	03-31-2004 1008	10-14-2005 0916
5-L	RELEASE	RELEASED FROM IN-TRANSIT FACL	03-31-2004 1008	03-31-2004 1008
5-L	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	03-31-2004 0444	03-31-2004 1008
FTD	TRANSFER	TRANSFER	03-31-2004 0444	03-31-2004 0444
FTD	A-DES	DESIGNATED, AT ASSIGNED FACIL	07-20-2001 1531	03-31-2004 0444
7-I	RELEASE	RELEASED FROM IN-TRANSIT FACL	07-20-2001 1531	07-20-2001 1531
7-I	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	07-20-2001 0926	07-20-2001 1531

G0002

MORE PAGES TO FOLLOW